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07-E-0257

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Via Hand Delivery

March 1, 2007

RECEIVED
PUBLIC SERVICE
COMMISSION
EXEC-FILES-ALBANY
2007 MAR -1 PM 4:05

Hon. Jaclyn A. Brilling
Secretary
New York State Public Service Commission
Three Empire State Plaza
Albany, NY 12223-1305

Re: Case 07-E-____ - In the Matter of Noble Chateaugay Windpark, LLC – Application for Certificate of Public Convenience and Necessity Pursuant to Public Service Law § 68 and Verified Petition for an Order Providing Lightened Regulation

Dear Secretary Brilling:

Enclosed please find an original and five copies of the *Application of Noble Chateaugay Windpark, LLC for a Certificate of Public Convenience and Necessity and Verified Petition for an Order Providing Lightened Regulation.*

Attached as an exhibit to the *Application* is a Certificate of Service on the municipality in which the project is proposed, as well as on the neighboring municipality of the Town of Bellmont.

Respectfully submitted,

READ AND LANIADO, LLP
Attorneys for Noble Chateaugay Windpark, LLC

By: Jeffrey B. Durocher

JBD/lac
Enclosures

ORIGINAL

STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

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In the Matter of Noble Chateaugay Windpark, LLC – Application for Certificate of Public Convenience and Necessity Pursuant to Public Service Law § 68 and Verified Petition for an Order Providing Lightened Regulation.

: Case 07-E-_____

---------- X

APPLICATION FOR CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY AND VERIFIED PETITION FOR AN ORDER PROVIDING LIGHTENED REGULATION

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Dated: March 1, 2007
Albany, New York

STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

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In the Matter of Noble Chateaugay Windpark, LLC – Application for Certificate of Public Convenience and Necessity Pursuant to Public Service Law § 68 and Verified Petition for an Order Providing Lightened Regulation.

Case 07-E-_____

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APPLICATION FOR CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY AND VERIFIED PETITION FOR AN ORDER PROVIDING LIGHTENED REGULATION

INTRODUCTION

Pursuant to Section 68 of the New York State Public Service Law, Noble Chateaugay Windpark, LLC (hereinafter referred to as "Noble" or the "Applicant"), the owner and operator of a proposed 108 megawatt ("MW") wind generation project (the "Project") in the Town of Chateaugay, Franklin County, New York, hereby requests that the New York State Public Service Commission ("Commission") grant it a certificate of public convenience and necessity ("CPCN") authorizing it to construct and operate the Project. In addition, Noble requests that the Commission issue an order providing for lightened regulation of the Applicant as an electric corporation, consistent with the Commission's orders providing for lightened regulation of electric generators selling electricity exclusively at wholesale. The Applicant also moves for an expedited proceeding[1] on the Application so that the Commission can rule in time to allow the Project to begin construction in the fall of 2007.

[1] 16 N.Y.C.R.R. § 21.10.

The Commission's grant of a CPCN to the Project is in the public interest. Development of the Project will help meet New York State's goals of increasing the use of renewable energy resources in the State, lowering harmful air emissions, reducing dependence on foreign fossil fuels, increasing fuel diversity and stimulating economic development.

DESCRIPTION OF THE APPLICANT

The Applicant is a limited liability company organized under the laws of the State of Delaware[2] and is wholly owned by Noble Environmental Power, LLC ("NEP"). NEP is principally owned by JP Morgan Partners ("JP Morgan"), a financial holding company incorporated in Delaware.

NEP was founded by experienced leaders in the power industry to respond to a public policy initiative to procure new electricity supplies from renewable energy sources, including wind. NEP is a leading developer of clean, environmentally responsible renewable energy facilities. JP Morgan provides the financial and structural resources needed to fulfill this mission. Through wholly-owned affiliates, NEP is actively developing wind energy projects at several locations in northern and western New York State. Last year, the Commission granted approvals to affiliates of the applicant to construct 385 MW of new wind energy in New York State.[3]

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[2] Attached hereto as Exhibit 1 is a Certificate of Incorporation of Noble Chateaugay Windpark, LLC (with amendment).

[3] Case 05-E-1634 - Petition of Noble Clinton Windpark I, LLC for a Certificate of Public Convenience and Necessity and an Order Providing for Lightened Regulation, *Order Granting a Certificate of Public Convenience and Necessity and Providing for Lightened Regulation* (Oct. 19, 2006); Case 05-E-1633 - Petition of Noble Ellenburg Windpark, LLC for a Certificate of Public Convenience and Necessity and an Order Providing for Lightened Regulation, *Order Granting a Certificate of Public Convenience and Necessity and Providing for Lightened Regulation* (Nov. 9, 2006); Case 06-E-0216 - Petition of Noble Altona Windpark, LLC for a Certificate of Public Convenience and Necessity and an Order Providing for Lightened Regulation, *Order Granting a Certificate of Public Convenience and Necessity and Providing for Lightened Regulation* (Nov. 9, 2006); and Case 06-E-0135 - Petition of Noble Bliss Windpark, LLC for a Certificate of Public Convenience and Necessity and an Order Providing for Lightened Regulation, *Order Granting a Certificate of Public Convenience and Necessity and Providing for Lightened Regulation* (Nov. 9, 2006).

Noble Bellmont Windpark, LLC, also a wholly-owned subsidiary of NEP and affiliate of the applicant, is proposing a 21 MW wind energy plant (the "Bellmont Facility") adjacent to the southern portion of the Project. The Bellmont Facility is located in the Town of Bellmont and has its own, separate interconnection to the Clinton substation. Both the Bellmont Facility and the Project are being reviewed pursuant to a single, coordinated review process addressing the cumulative impacts of both proposals. In a separate filing, the Applicant and Noble Bellmont Windpark, LLC are seeking a declaratory ruling confirming that the Bellmont Facility is an exempt alternate energy production facility.

Correspondence and communications concerning this filing should be directed to:

Charles C. Hinckley, President
Noble Chateaugay Windpark, LLC
8 Railroad Avenue, Suite A
Essex, CT 06426
Tel. (860) 581-5010
Fax. (860) 767-7041
E-mail: hinckleyc@noblepower.com

and to:

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PROJECT DESCRIPTION

The Project will consist of 72 wind turbines located in the Town of Chateaugay, with approximately 22 miles of associated access roads and 29 miles of 34.5 kv underground and overhead electric collection lines, and an interconnection to the Clinton substation located in Clinton County, NY. The wind turbines that will be installed at the Windpark will be 1.5 MW General Electric ("GE") Model "sle" wind turbine generators. The total output of the Project will be 127.5 MW. The GE turbines are a three-bladed, upwind, horizontal-axis wind turbine with a rotor diameter of 253 feet (77 meters). A nacelle is located at the top of each tower and

contains the electrical generating equipment. The maximum total height of the turbines, with blade at full vertical extension is 389 feet (118.5 meters). Once installed, each wind turbine tower will occupy a round, slightly exposed poured concrete base approximately 18 feet (5.5 meters) in diameter.

Attached hereto as Exhibit 2 is a topographic map showing the geographic outline of the Project facilities. The Project is located on approximately 7,447 acres of leased land, over which approximately 22 miles of access roads will connect each wind turbine to existing roads, allowing vehicle access for construction and maintenance of the Project components.

The Project also includes the construction and use of an electrical collection system that will allow delivery of electricity to the transmission system. The 34.5 kV electrical collection system will be partially buried and partially aboveground, as depicted in Exhibit 2. Where practicable, the electrical collection system will be installed along the same corridor as the access roads. The applicant will comply with applicable pole sharing requirements and will number the poles in accordance with Commission regulations.[4] The Project connects to the bulk power grid via a short transmission line extending from the eastern edge of the project, into Clinton County, and terminating at the Clinton substation. The Vegetation Management Plan, attached as Exhibit 3, will be implemented to minimize clearance of vegetation, while maintaining minimum clearance from all overhead lines. The New York Power Authority ("NYPA") will own the substation.[5]

The Project will sell its output exclusively at wholesale and will not be a retail supplier. The Project anticipates selling its output in the spot markets administered by the New York Independent System Operator ("NYISO"), or neighboring control areas, such as New England or Ontario. The Project may also sell capacity, voltage support and ancillary services in the NYISO markets. Noble may also offer its output through bilateral contracts. Finally, the Project intends

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[4] 16 N.Y.C.R.R. Part 217.

[5] The substation was approved for construction in Case 05-E-1634 and is a modular design, allowing the expansion to accommodate the interconnection of the Project.

to sell environmental attributes or renewable energy credits ("RECs"), to purchasers such as green energy marketers, the New York State Energy Research and Development Authority ("NYSERDA") or other customers. The Applicant does not own, nor is it affiliated with any other generating facilities except for wind projects being developed by separate, individually structured entities as discussed herein.

The Transmission Planning Advisory Subcommittee of the New York Independent System Operator ("NYISO") accepted the System Reliability Impact and Reliability Study ("SRIS") for the Project on February 20, 2007. The NYISO Operating Committee approved the SRIS on February 27, 2007; the Project will participate in the Feasibility Study for the Class Year 2007 projects pursuant to the NYISO's interconnection tariff.

Safety will be an essential element of the Project design. The Project will implement an Emergency Response Plan, designed in consultation with the Town, the 911 service provider, local first responders and Franklin county emergency personnel. That Emergency Response Plan will be reviewed and updated on a regular basis. Noble will also ensure that the Project facilities are designed and manufactured to meet applicable codes and standards. A list of the relevant criteria are attached hereto as Exhibit 4. The Applicant will implement a quality assurance plan throughout construction and commissioning to ensure quality control. Entrance roads will have substantial steel gates to control access, subject to landowner requirements. The towers will be locked and transformers and cable junctions will be enclosed and secured with padlocks. Finally, the Clinton substation will be secured as required by NYPA and in accordance with the standards required by the Commission Order approving the construction of that substation.

The Applicant submitted an application for a Wind Energy Permit to the Town of Chateaugay Town Board on December 18, 2006. The Applicant will soon make a joint application to the New York State Department of Environmental Conservation and the United States Army Corps of Engineers for wetlands permits. Other state agencies with which the Applicant is engaged in ongoing discussions are NYPA (regarding interconnection) and the

County of Clinton Industrial Development Agency (regarding a payment in lieu of taxes ("PILOT") agreement).

Approval of the Project is subject to compliance with the State Environmental Quality Review Act ("SEQRA"). The Chateaugay Town Board has elected to be one of the lead agencies for purposes of SEQRA review and initiated a coordinated agency review by letter dated December 22, 2006. The letter was sent to each of the involved agencies in the SEQRA review process, including to the Secretary of the Commission. On February 27, 2007, the lead agencies accepted the Draft Environmental Impact Statement ("DEIS") as complete and has issued the DEIS for public review and comment.

Noble is committed to being a good neighbor and will implement its Complaint Resolution Procedures, attached hereto as Exhibit 5, to address any and all concerns received from the community. Noble's investment in the Town of Chateaugay will benefit the local community by providing PILOT payments, payments to landowners and to new employees, as well as indirect economic stimulus. The Applicant has conducted outreach in the local community to introduce the Project and provide information, while seeking input from residents of the Town, and will continue to do so. In particular, Noble has attended Town Board meetings, met with local residents and responded to questions from the Town Board and the public.

I. THE COMMISSION SHOULD EXPEDITIOUSLY GRANT A CPCN FOR THE CHATEAUGAY WINDPARK.

The regulations and Commission precedent require an applicant to show that its plant is in the public interest, that the enterprise is economically feasible, that the applicant is able to finance the project and that it is able to render safe and adequate service.[6] The Project satisfies the requirements for a CPCN that are set forth in Public Service Law § 68 and 16 N.Y.C.R.R. §§ 21.2 and 21.3.

[6] *See, e.g.*, Case 93-E-1073 - Petition of Wallkill Generating Company for an Original Certificate of Public Convenience and Necessity to Construct and Operate a 95 Megawatt Natural Gas-fired Generating Facility in the Town of Wallkill, Orange County, *Opinion and Order Certificate of Public Convenience and Necessity*, Opinion No. 94-18, at 30 (Aug. 12, 1994).

The addition of new renewable energy capacity supports New York State policy goals. As set out in the Commission's Order Approving Renewable Portfolio Standard ("RPS"), the State is seeking to significantly increase its use of electricity produced from renewable resources.[7] Reductions in fossil fuel emissions, fuel diversity, reduced energy prices, energy security and economic development are some of the benefits of these environmentally benign generation sources.[8] The anticipated schedule for meeting the RPS goals requires approximately 2,300,000 megawatt hours ("MWhs") of incremental renewable energy in the form of RECs for 2007 and approximately 3,600,000 MWhs for 2008 (not including the renewable energy acquired through the "voluntary" REC market). The Commission should consider the Project's CPCN application in light of the fact that the Project will provide new, renewable, and emission-free generating capacity to the State, and increase REC supplies, which will reduce the cost to ratepayers of meeting renewable energy goals.

The Project will operate in the competitive energy markets and will generate income from several revenue sources. Backed financially by JP Morgan, the Applicant will be able to successfully develop, finance, construct and operate the Project. Furthermore, the Applicant is qualified to operate the facility. Its principals have experience developing and operating independent power projects in several states, and have developed several projects in New York State.

The Applicant hereby moves pursuant to Section 21.10 of the Commission's rules[9] for an expedited proceeding on the Application so that the Commission can rule in time to allow the Project to begin construction in the fall of 2007. Pursuant to Section 21.10(a)(3), Noble has arranged to publish notices in newspapers of general circulation in the area of the Project. A

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[7] Case 03-E-0188 – Proceeding on Motion of the Commission Regarding a Retail Renewable Portfolio Standard, *Order Regarding Retail Renewable Portfolio Standard* (Sep. 24, 2004).

[8] *Id.* at p. 3.

[9] 16 N.Y.C.R.R. § 21.10.

copy of the proposed notice is attached hereto as Exhibit 6. Proof of publication will be provided by separate cover.

Based upon the foregoing, and the Verification attached hereto as Exhibit 7, the Commission should determine that development of the Project is economically feasible and in the public interest, and should grant it a CPCN.

II. THE COMMISSION SHOULD APPLY LIGHTENED REGULATION TO THE CHATEAUGAY WINDPARK, CONSISTENT WITH THE LIGHTENED REGULATION IMPOSED ON OTHER WHOLESALE GENERATORS.

The Applicant requests that it be regulated under a lightened regulatory regime similar to the regimes the Commission has imposed on other independent power producers engaged in the selling of electric energy exclusively at wholesale.

The Commission first articulated its policy on the regulatory regime for competitive wholesale providers of electricity in its Wallkill Generating Co., L.P. order ("*Wallkill*").[10] In *Wallkill*, the Commission found it appropriate to modify the regulatory procedures that were intended to apply to monopoly utilities when regulating generators operating in a competitive environment. The Commission established the regulatory requirements that should be imposed on wholesale electric service providers in its orders imposing lightened regulation on Carr Street Generating Station, L.P. ("Carr Street") and AES Eastern Enterprises, L.P. ("AES").[11]

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[10] Case 91-E-0350 – Wallkill Generating Co., L.P., *Order Establishing Regulatory Regime* (Apr. 11, 1994).

[11] Case 98-E-1670 – Carr Street Generating Station, L.P. – Petition for an Original Certificate of Public Convenience and Necessity and for a Declaratory Ruling on Regulatory Regime, *Order Providing For Lightened Regulation* (Apr. 23, 1999); Case 99-E-0148 – AES Eastern Energy, L.P. and AES Creative Resources, L.P. – Petition for a Declaratory Ruling That Light-Handed Regulation Be Applied Concerning the Petitioner's Purchase of Certain Electric Generating Assets From New York State Electric & Gas Corporation, *Order Providing For Lightened Regulation* (Apr. 23, 1999). Since issuing those decisions, the Commission has applied the lightened regulation principles of these two cases to many generators selling electricity at wholesale. *See, e.g.*, Case 04-E-1710 – Petition of TBG Cogen Partners for an Order Providing for Lightened Regulation, *Order Providing for Lightened Regulation* (Mar. 17. 2005).

In the Carr Street proceeding, the Commission found that the generator was subject to regulation as an electric corporation under Public Service Law § 2(13) and was an entity engaged in the manufacture of electricity under Public Service Law § 5(1)(b). As such, Carr Street was subject to the Commission's jurisdiction under Public Service Law §§ 11, 19, 24, 25 and 26. The Commission also found that Carr Street was subject to certain provisions of Article 4, namely, Public Service Law §§ 66(6), 68, 69, 69-a and 70. The Commission noted, however, that consistent with the *Wallkill* Order, Carr Street could fulfill its obligation to file an annual report, pursuant to Public Service Law § 66(6), by submitting the information it is obliged to file with the Federal Energy Regulatory Commission. The Commission also stated it would presume that Public Service Law § 70 regulation would not apply to transfers of ownership interests as long as there is no potential for the exercise of market power arising out of an upstream power transfer.

Finally, the Commission determined that most of the provisions of Article 6 do not apply to wholesale generators. Nonetheless, because Carr Street was a generator that would have its capacity marketed by an affiliated power marketer, the Commission ordered Carr Street to comply with Public Service Law § 110(2), which gives the Commission access to books and records and the filing of reports in the event the affiliate relationship creates a market power issue. The Commission determined that Public Service Law § 110(1), on reporting of stock ownership, did not apply to Carr Street because it was organized as a limited partnership.[12] The Commission also ordered Carr Street to comply with Public Service Law § 119-b, regarding the protection of underground facilities from damage by excavators. As for the remainder of Article 6 requirements, the Commission determined that the provisions either do not pertain to wholesale

[12] The Commission, however, has stated that it would apply the reporting of stock ownership requirements of Section 110(1) to non-partnership entities. See, e.g., Case 02-E-0362 – Petition of Flat Rock Windpower LLC for an Order that its Proposed Flat Rock Wind Generation Facility will be Subject Only to Lightened Regulation and for a Certificate of Public Convenience and Necessity Pursuant to section 68 of the Public Service Law, *Order Granting a Certificate of Public Convenience and Necessity and Providing for Lightened Regulation* (Jun. 17, 2004).

generators, or would unnecessarily hinder competitive wholesale generators by interfering with their flexibility to structure the financing and ownership of their facilities.[13]

In the *AES* Order, the Commission applied the principles announced in the *Carr Street* Order, which was issued the same day. The Commission determined that as a wholesale generator, Articles 1 and 4 of the Public Service Law would be applied to AES's operations, but with reduced scrutiny and less stringent filing requirements, and that most of Article 6 would not be imposed.

Here, the Commission should subject Noble to lightened regulation for generators selling electricity in wholesale competitive markets. The Applicant requests that the Commission apply the relevant sections of Article 1 and Article 4 to its operation with reduced scrutiny and less stringent filing requirements, and that the Commission not impose Article 6 requirements, except for Public Service Law § 119-b. In the future, if the Applicant becomes affiliated with a power marketer, Public Service Law § 110(1) and (2) would apply.

[13] Case 98-E-1620 – Carr Street, *Order Providing For Lightened Regulation*, at p. 9.

CONCLUSION

As discussed herein, development of the Project promotes New York State policies and will provide many public benefits, including economic stimulus, pollution reduction, and stable energy prices. In accordance with the foregoing, Noble respectfully requests that the Commission (1) grant its motion for an expedited proceeding, (2) grant a CPCN to the Project and (3) issue an Order providing for lightened regulatory treatment of the Applicant.

Respectfully submitted,

READ AND LANIADO, LLP
Attorneys for Noble Chateaugay
Windpark, LLC
25 Eagle Street
Albany, New York 12207-1901
(518) 465-9313 Tel.
(518) 465-9315 Fax

By: 
Jeffrey B. Durocher

Dated: March 1, 2007
Albany, New York

Reorder No. 5109N
JULIUS BLUMBERG, INC.
NYC 10013
⊛ 10% P.C.W.

State of Delaware
Secretary of State
Division of Corporations
Delivered 10:30 AM 02/21/2006
FILED 10:24 AM 02/21/2006
SRV 060157990 - 4112781 FILE

CERTIFICATE OF FORMATION

OF

Noble Chateaugay Windpark I, LLC

(A Delaware Limited Liability Company)

First: The name of the limited liability company is: Noble Chateaugay Windpark I, LLC

Second: Its registered office in the State of Delaware is located at 16192 Coastal Highway, Lewes, Delaware 19958. County of Sussex. The registered agent in charge thereof is Harvard Business Services, Inc.

IN WITNESS WHEREOF, I Richard H. Bell, being fully authorized to execute and file this document have signed below and executed this Certificate of Formation on this 21st day of February, 2006.

Richard H. Bell
Authorized Person

STATE OF DELAWARE

CERTIFICATE OF AMENDMENT

OF

Noble Chateaugay Windpark I, LLC

FIRST: The name of the Limited Liability Company is: **Noble Chateaugay Windpark I, LLC**.

SECOND: The Certificate of Formation of the Limited Liability Company is hereby amended as follows:

RESOLVED, that the Certificate of Formation of the Limited Liability Company be amended by changing the article thereof numbered "FIRST" so that, as amended said Article shall be and read as follows:

FIRST: The name of the Limited Liability Company is:

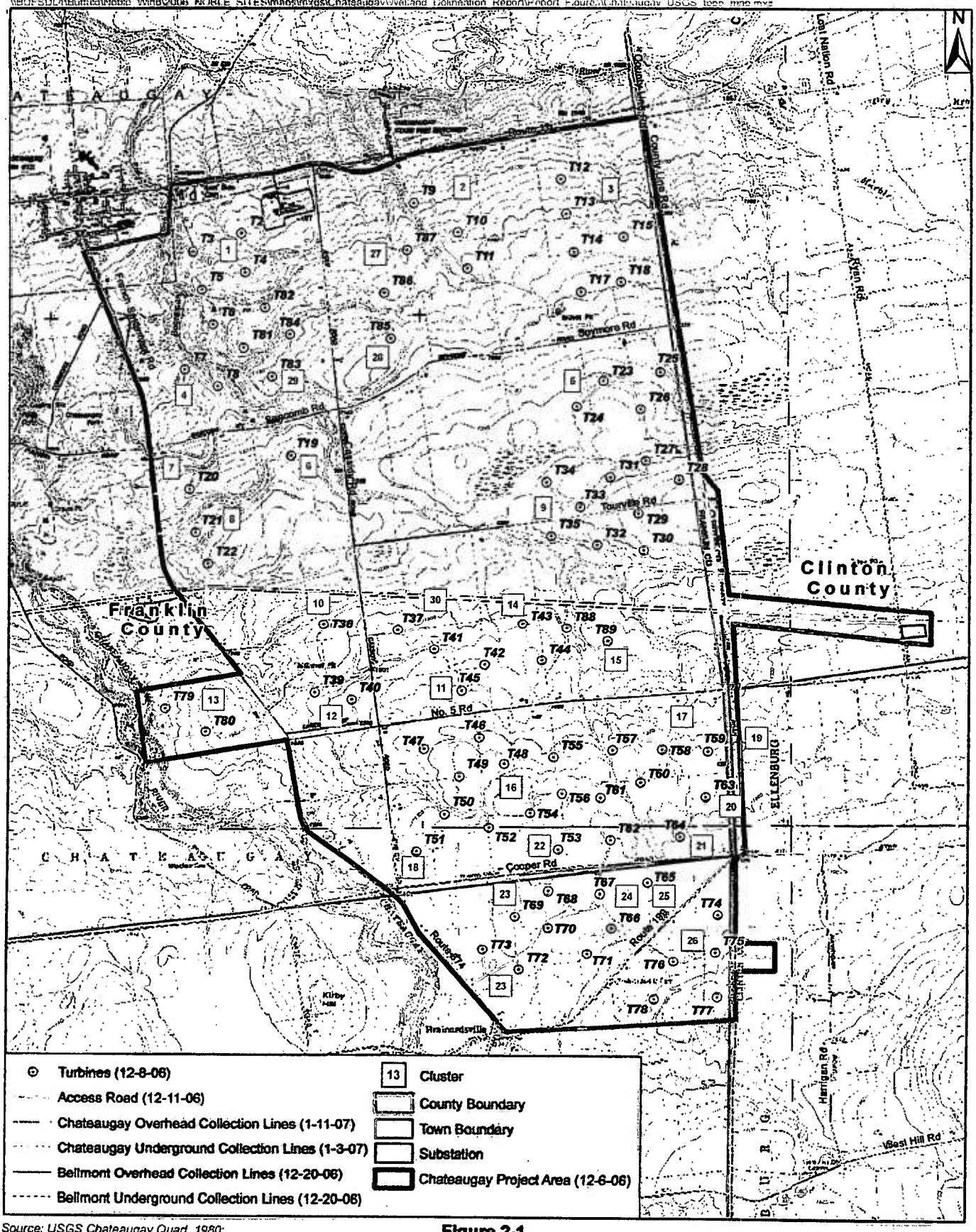
Noble Chateaugay Windpark, LLC

IN WITNESS WHEREOF, said **Noble Chateaugay Windpark I, LLC** has caused this certificate to be signed by its Authorized Person this 22 day of March, 2006.

BY: _____ - Signature

Name: Matthew J. Brady - Print Name
Authorized Person

Reorder No. 5109N
JULIUS BLUMBERG, INC.
NYC 10013



Source: USGS Chateaugay Quad, 1980;
USGS Brainardsville Quad, 1980.

Note: Underground collection lines installed in shoulder of access roads are not shown.

Figure 2-1
Noble Chateaugay Windpark
and Noble Bellmont Windpark
USGS Topographic Map

0 0.5 1 2
Miles

Reorder No. 5109N
JULIUS BLUMBERG, INC.
NYC 10013

1.0 Purpose

The purpose of this Vegetative Management Plan (VMP) is to outline the Noble Environmental Power (hereafter referred to as "Noble") plan for managing vegetation to ensure the safety and reliability of our Wind Power collection and transmission systems by preventing tree/vegetation related outages, tree/power line related fires, and to protect overall public safety. The following procedures are to be performed to mitigate the threat of trees and vegetation from conflicting with overhead conductors.

2.0 GENERAL STATEMENT OF GOALS AND OBJECTIVES

Goals of the Vegetation Management Plan

This VMP is a guidance document that will be incorporated into Noble's Quality Assurance Plan (QAP). The primary goals of this right-of-way (ROW) management plan are the control of vegetation and the establishment of standard operating procedures relative to vegetation management to maintain the safe operation of Noble's wind power system. An additional goal of this VMP is that the vegetation management practices are conducted in the most environmentally sound manner through an integrated vegetation management program that will eliminate the need for herbicides and allow for a vegetative community that provides ecological value while maintaining the safety of the system.

Objectives of the Vegetation Management Plan

The primary objective of the VMP is the selective elimination of woody vegetation to protect the integrity of the electrical collection and transmission system. Woody vegetation must be controlled to prevent contact with the wires and other structures which could lead to interruptions in power generating operations. An additional objective of the VMP is the control of vegetation to provide physical and visual access within the ROW for inspection, maintenance, and repair.

The program outlined in this VMP is also designed to maintain an acceptable appearance of the right-of-way, as well as minimize erosion and inhibit the re-establishment of target tree species by encouraging the development of ground cover and low shrubs.

The management program will accomplish these objectives in a cost effective manner with appropriate regard for worker safety, protection of public health and the environment from unreasonable adverse effects, and in compliance with all applicable Local, State, and Federal laws, regulations, and permits.

The choice of the target vegetation and appropriate control technique will be the core of the program. This VMP is intended to provide State and Local officials, and any other

interested parties, a basic source of information on Noble's ROW vegetation management plan. This document is further designed to provide overall guidance for the licensed and certified applicators working on behalf of Noble to implement the VMP.

Summary

In summary, the goals and objectives of this plan are as follows:

- To utilize an integrated vegetation management program designed to maximize control of undesirable vegetation while eliminating the use of herbicides.
- To encourage the establishment of low-growing herbaceous vegetation within the ROW.
- To insure that all vegetation management operations are conducted in a safe, effective manner and in conformity with Local, State and Federal laws, regulations and permit conditions.
- To maintain the utility ROWs to their full width.
- At a minimum, to treat all public or private drinking water supplies, surface waters, wetlands, inhabited areas, agricultural areas as sensitive sites that require special consideration during vegetation management operations.
- To incorporate appropriate vegetation removal methods (such as hand cutting) in order to protect environmentally sensitive sites.
- To retain appropriately certified and licensed contractors to implement the Noble VMP.
- To have a Noble representative respond quickly to any questions or complaints from the public and/or governmental agencies that relate to the VMP.
- To perform an annual review of the VMP to assess treatment and cost effectiveness, environmental effects, public safety and compliance with regulations.

3.0 Inspection Frequency

Right-of-way inspection will occur on a quarterly basis, at a minimum. More frequent inspection may be required due to weather conditions (e.g. ice storm or unusually heavy snow) or other unforeseen circumstances. During routine inspections the ROW will be checked for:

- Excessive line sag
- Vegetation that is encroaching the conductors (within an 8-foot radius of the wires)
- Dead or diseased trees that pose the danger of falling into the transmission or collection system
- Condition of the power poles and risers.

2.0 IDENTIFICATION OF TARGET VEGETATION

For the purposes of this plan, plant species are divided into two groups, (1) undesirable species capable of damaging the integrity of the collection/transmission system or interfering with access, and (2) desirable species which cannot. It is the responsibility of the vegetation control contractor to be knowledgeable about and to instruct crews in the

identification of desirable and undesirable species and the various control techniques necessary for vegetation management.

In general, undesirable species include trees, tall maturing shrubs (i.e., greater than 12 feet in height) and vines. This includes, but is not limited to, conifers, pines, grape vines, staghorn sumac, cottonwood, poplar, silver maple, box elder, black cherry, red maple, and quaking aspen. Control of woody species is critical because of the threat that contact with wires or other electrical equipment poses. Removal of some shrub species (such as honeysuckle, raspberry, or viburnum) may be necessary to facilitate physical and visual access to the ROW for inspection, maintenance and repair.

Desirable species within the ROW include low maturing shrubs, ferns, grasses, herbs, and wildflowers.

4.0 INTENDED METHODS OF VEGETATION MANAGEMENT AND THE RATIONALE FOR THEIR USE

Vegetation management along the ROWs will involve an integrated approach, including selective removal to encourage appropriate competing vegetation and mechanical control methods (e.g., hand cutting, mowing, selective trimming). Due to the potential harmful effects to the environment, even when applied properly, Noble does not intend to incorporate herbicides into the VMP. If in the future it becomes apparent that the use of herbicides is necessary to manage invasive species or to maintain the integrity of the ROW, Noble will consult with the appropriate agencies in regards to approved substances and application methods. The method chosen for a given vegetation problem will attempt to achieve a long-term, low maintenance vegetation management program through the encouragement of a stable herbaceous community.

Hand Cutting. Hand cutting consists of the mechanical cutting of target species using chain saws or brush cutters. Target species are cut as close to the ground as practical with stump heights usually not exceeding three inches. Hand cutting is used in order to protect environmentally sensitive sites, such as stream and wetlands, or to remove vegetation that is too large to be removed via mowing. It is also used in other areas where terrain, site size, or sensitivity render mowing impossible or impractical. Hand cutting may be used at any time of the year.

Mowing. Mowing consists of the mechanical cutting of target vegetation using machines. Depending upon the resources available, mechanical cutting may be made using a consumer-type push mower, a large self-propelled or rider mower, brush hog, edgers, and string trimmers. Selection of specific equipment is based on terrain, target vegetation size, and equipment availability. Mowing is used on sites where a large number of target species stems have exceeded maximum control heights or where access is inhibited by high woody vegetation density and access is required in the short term. The use of mowing as a treatment method is restricted by steep slopes, rocky terrain, and wet sites with deep soft soils. Mowing shall be used in most areas where terrain, site size and sensitivity permit efficient use of the equipment. Mowing may be used at any time of the year except when snow precludes operations.

Selective Trimming Selective trimming consists of the mechanical pruning of the tops or encroaching limbs of trees. Where possible, this trimming will be accomplished using aerial lifts mounted on trucks or tractors or, if terrain or obstructions prevent equipment access, climbing crews. This method may be used where complete removal of vegetation is not practical or allowed, such as stream banks and road shoulders.

Summary of Control Strategies Control strategies for Noble's ROWs can be generally categorized as follows:

Table 1 – Summary of Control Strategies

Target	Techniques	Comments
Grasses	Mowing	If necessary, grasses will be mowed.
	Hand cutting	Spot removal of grass growing along fencing or areas where mowing or cutting is not practical.
Low Growth	Mowing	In most cases; option for sensitive areas, with the exception of wetlands and stream banks.
	Hand cutting	Where terrain prevents mowing and resprouting is not a concern. In all cases within wetlands and along stream banks.
Tall Growth	Selective trimming	In cases where the visibility or interference does not warrant removal of entire vegetation; option for sensitive areas.
	Hand cutting	Terrain prevents mowing; mowing not effective due to stump size; option for sensitive areas.

5.0 VEGETATION CONTROL WITHIN SENSITIVE AREAS

Sensitive areas are generally defined as surface waters, wetlands, inhabited areas, and agricultural areas. Within these sensitive areas, vegetative management strategies will generally be limited to the least invasive methods practicable. Specific methodologies will be chosen with a focus on limiting disruption to the identified resource. Noble also anticipates that certain permits, such as the wetland permit, will contain conditions that limit vegetation removal to hand cutting only in certain sensitive areas. Noble will provide the designated contractor with a list of all sensitive areas and applicable permit conditions prior to commencement of any work.

Noble will limit the removal of vegetation within these sensitive areas to the minimum amount necessary to maintain the safety and integrity of the system. For example, vegetation management within the 50-foot buffer adjacent to protected streams and within identified wetland areas will be limited to selective hand cutting and trimming of trees that encroach on the established safety zone.

6.0 Documentation required

Upon completion of inspection Form NEP-form 4.9.002 – *VMP inspection sheet* will be completed and filed by the inspecting party. If tree removal is required Form NEP-form 4.9.003 – *Tree removal tracking sheet* will be completed and filed by the inspecting party.

Reorder No. 5109N
JULIUS BLUMBERG, INC.
NYC 10013

The Project will be designed and constructed in compliance with the following engineering codes, as applicable:

A.A.N.	- American Association of Nurserymen
A.C.I.	- American Concrete Institute
A.I.S.I.	- American Iron and Steel Institute
A.N.S.I.	- American National Standards Institute, Inc.
A.S.C.E.	- American Society of Civil Engineers
A.S.L.A.	- American Society of Landscape Architects
A.S.M.E.	- American Society of Mechanical Engineers
A.S.T.M.	- American Society for Testing Materials
A.S + W	- American Steel & Wire Corporation
A.W.P.A.	- American Wood-Preservers Association
A.W.S.	- American Welding Society
D.E.C.	- Department of Environmental Conservation
E.E.I.	- Electrical Engineering Institute
IEC 61400-1	- Wind Turbine Safety and Design
N.E.M.A.	- National Electrical Manufacturers Association
O.S.H.A.	- Occupational Safety and Health Administration, U.S. Department of Labor
P.C.C.M.	- Prestressed Concrete Construction Manual
S.A.E.	- Society of Automotive Engineers
S.C.M.	- Steel Construction Manual
S.S.P.C.	- Steel Structures Painting Council

The substation shall be designed and manufactured in accordance with the latest edition and addenda of the following codes and standards:

Aluminum Association (AA)
Association of Edison Illuminating Companies (AEIC)
American National Standards Institute (ANSI)

C2	National Electric Safety Code (NESC)
C29.1	Test Methods for Electrical Insulators
C29.9	Wet Process Porcelain Insulators, Apparatus, Post Type
C37.30	Definitions and Requirements for High Voltage Air Switches, Insulators and Bus Supports
C37.32	Schedules of Preferred Ratings, Manufacturing, Specifications and Bus Supports
Z55.1	Gray Finishes for Industrial Apparatus and Equipment

American Society of Nondestructive Testing (ASNT)
American Society for Testing and Materials (ASTM)

A36	Standard Specification for Carbon Structural Steel

A123 Standard Specification for Zinc (Hot-Dip-Galvanized) Coatings on Iron and Steel Products
A153 Standard Specification for Zinc Coating (Hot-Dip) on Iron Steel Hardware
A307 Standard Specification for Carbon Steel bolts and Studs, 60,000 PSI Tensile Strength
A394 Standard Specification for Steel Transmission Tower Bolts, Zinc-Coated and Bare
A500 Standard Specification for Cold-Formed Welded and Seamless Carbon Steel Tubing in Rounds and Shapes
A992 Standard Specification for Structural Steel Shapes
B211 Aluminum-Alloy Bars, Rods and Wire (Alloy 990A)
B230 Aluminum Wire, 1350-H19 for Electrical Purposes
B231 Aluminum Conductors, Concentric-Lay-Stranded
B232 Aluminum Conductors, Concentric-Lay-Stranded, Steel Reinforced (ACSR)
B241 Specification for Aluminum-Alloy Seamless Tube
B317 Extruded Aluminum-Alloy Bars, Rods, Pipe and Structural Shapes for Electrical Purposes
B326 Aluminum Bars for Electrical Purposes (Bus Bars)

American Welding Society (AWS)
Edison Electric Institute (EEI)
Building Code of New York State (BCNYS) based on 2000 International Building Code (IBC) with 2001 Supplement (which includes seismic standards)

Institute of Electrical and Electronic Engineers (IEEE)
IEEE C62 IEEE Guides and Standards for Surge Protection, complete collection
IEEE 80 IEEE Guide for Safety in AC Substation Grounding
IEEE 605 IEEE Guide for the Design of Substation Rigid-Bus Structures
IEEE 693 IEEE Recommended Practices for Seismic Design of Substations
IEEE 998 IEEE Guide for Direct Lightning Stroke Shielding of Substations

Illuminating Engineering Society of North America (IES)
Instrument Society of America (ISA)
Insulated Cable Engineering Association (ICEA)
International Standards Organization (ISO)
National Fire Protection Association (NFPA)
NFPA 70 National Electric Code (NEC)

National Electrical Manufacturer's Association (NEMA)
CC1 Electronic Power Connectors
SG1 Electric Power Connectors
SG6 Power Switching Equipment
TTI Tapered Tubular Steel Structures
LA1 Lightning Arresters
MG1 Motors and Generators

HV1 High Voltage Insulators
EI-21.2 Instrument Transformers
107 Methods of Measurement of Radio Influence Voltage (RIV) of High-Voltage Apparatus

Occupational Safety and Health Act (OSHA)
Underwriter's Laboratories (UL)
The 2000 NEHRP Recommended Practice for the Design of Substations

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Complaint Resolution Procedure

Policy Statement

Noble Environmental Power (Noble) is committed to implementing a system for receiving and processing any complaints from nearby residents that might arise concerning our construction activities and operations, to ensure compliance with all applicable permits and agreements. Noble will make every reasonable effort to resolve any complaint.

Community Relations Manager

Noble will assign a Community Relations Manager to be responsible for resolving any complaints from nearby residents.

Communicating Complaints to Noble

Prior to the start of construction Noble will mail a letter to all town residents notifying them of local and toll-free telephone numbers (Community Relations numbers) where they can contact Noble with any complaints, questions, or concerns. Our toll free number is **1-888-NOBLE 06**. The Applicant's toll-free phone number (1-888-Noble 06) will be published in local newspapers, on the noblepower.com web page, and at participating town halls for the purpose of receiving all complaints. The telephone number will be published quarterly in local newspapers in the first two years of operation of the Project and semi-annually thereafter, the telephone number will be posted by the Towns in public areas within the Town, and the number will be published in the telephone directory white pages and identified as a Windpower Complaint Hot Line to ensure that Town residents are aware of it. The phone number will be advertised in mailings sent to all Town addresses furnished by the Town to the Applicant, on at least a semi-annual basis. If the telephone is not staffed 24 hours a day, it will include automatic answering with a time and date stamp. Noble will publish the Community Relations telephone numbers, an email address, and street address for the Noble office where residents can communicate complaints, questions and concerns. The telephone numbers will be published in the local telephone book, and all contact information will be made available in regular Noble newsletters that will be mailed to all town residents, and at applicable town halls. A form will be made available for written complaints. The Applicant will respond to any complaints, regardless of the means by which they are communicated.

Records and reports

Noble will make reasonable efforts to respond to all inquiries within 24 hours of receipt. Noble will maintain records, and provide monthly reports to the applicable town boards, of any complaints received, the resolution of any such complaints, and any unresolved complaints, including steps taken to resolve them.

Complaint resolution procedure

If a complaint is not resolved by Noble within thirty (30) days of its receipt to the satisfaction of the party who filed it, that party may request that it be referred for resolution to a mutually acceptable mediator, at mutually acceptable time and location in New York State, in accordance with a mutually acceptable mediation procedure.

Reorder No. 5109N
JULIUS BLUMBERG, INC
NYC 10013

NOTICE OF APPLICATION OF
NOBLE CHATEAUGAY WINDPARK, LLC

Noble Chateaugay Windpark, LLC, LLC ("Noble") has filed a petition with the Public Service Commission for a certificate of public convenience and necessity to construct and operate a wind energy facility in the Towns of Chateaugay and Ellenburg, in Clinton and Franklin Counties, New York.

Noble has requested that the hearing required by the Public Service Law be held before the Public Service Commission on the basis of the petition and such exhibits, prepared testimony and any other information as may have been filed by any party or the Staff of the Public Service Commission.

Any person opposed to the granting of the certificate, within 10 days of the publication of this notice, should notify in writing the secretary of the Public Service Commission at Agency Building 3, Empire State Plaza, Albany, N.Y. 12223, of the reasons for the opposition.

Reorder No. 5109N
JULIUS BLUMBERG, INC.
NYC 10013
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STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

In the Matter of Noble Chateaugay Windpark, LLC – Application for Certificate of Public Convenience and Necessity Pursuant to Public Service Law § 68 and Verified Petition for an Order Providing Lightened Regulation.

VERIFICATION

STATE OF CONNECTICUT)
)ss.:
COUNTY OF MIDDLESEX)

CHARLES C. HINCKLEY, being duly sworn, deposed and says:

I am the President of Noble Chateaugay Windpark, LLC and I am fully familiar with the facts presented in the Application for Certificate of Public Convenience and Necessity Pursuant to Public Service Law § 68 and Verified Petition for an Order Providing Lightened Regulation.

I have read the foregoing Application and Petition and know the contents thereof. All of the facts asserted in the above referenced petition are true and accurate to the best of my knowledge.

CHARLES C. HINCKLEY

Sworn to, before me, this 1st
day of March, 2007.

Notary Public

JENNIFER KOVACS
NOTARY PUBLIC
MY COMMISSION EXPIRES MAY 31, 2011

Reorder No. 5109N
JULIUS BLUMBERG, INC.
NYC 10013

STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

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Case 07-E- ____ - Application of Noble Chateaugay Windpark, LLC for a Certificate of Public Convenience and Necessity and Verified Petition for an Order Providing for Lightened Regulation

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CERTIFICATE OF SERVICE

On March 1, 2007, a copy of the *Application of Noble Chateaugay, LLC for a Certificate of Public Convenience and Necessity and Verified Petition for an Order Providing for Lightened Regulation*, in the above captioned case, was served on each of the following municipalities by first class mail to: Donald Bilow, Town Supervisor, Town of Chateaugay, 191 East Main Street; and Kip Cassavan, Town Supervisor, Town of Bellmont, County Route 24, Brainardsville, NY.

Jeffrey B. Durocher

Dated: March 1, 2007
Albany, New York